Rule Summary:
CY 2025 Outpatient Prospective Payment System

The Centers for Medicare and Medicaid Services (CMS) released the Calendar Year (CY) 2025 Outpatient Prospective Payment (OPPS) and Ambulatory Surgical Center (ASC) services proposed rule. Proposals within the rule include increasing the conversion factor to 2.6%, updates to the conditions of participation for hospital and critical access hospitals related to delivery of obstetric and emergency services, and increased data reporting on Health-Related Social Needs across various quality programs. **Comments are due September 9, 2024.** To read the CMS Fact Sheet for OPPS/ASC Proposed Payment Rule, click here.

Proposed Payment Updates for OPPS and ASCs

- Proposes to update payments rates for OPPS and ASCs that meet the applicable quality reporting requirements by a net 2.6%. This includes a proposed market-basket update of 3.0%, as well as a statutorily required productivity cut of 0.4 percentage points.
- Proposes to continue applying the productivity-adjusted hospital market basket update to ASCs for one more year; in CY2024, CMS extended this for two more years beyond its five-year trial period which began in 2019 to allow CMS to gather more data to determine the efficacy of aligning ASC payments with OPPS methodology.
- Proposes to maintain the existing rate structures for the Partial Hospitalization Program (PHP) Intensive Outpatient Program (IOP) established in CY2024, with two APCs for each provider type: one for days with three services per day, and one for four or more services per day.

Conditions of Participation for Obstetric Services

(Full Proposal Language)

- **Organization and Staffing Standards**:
  - OB facilities/units must be supervised by an experienced Registered Nurse (RN), Certified Nurse Midwife (CNM).
  - Privileges for OB practitioners must be delineated based on competencies.
- **Delivery of Service**:
  - Labor and Delivery (L&D) rooms must be equipped with certain basic monitoring and resuscitation equipment such as a call-in system, cardiac monitor, and fetal doppler or monitor.
  - The facility must have in place provisions and protocols consistent with nationally recognized, evidence-based guidelines for OB emergencies, complications, immediate post-delivery care, and other patient health and safety events.
    Note: CMS does not currently plan to prescribe a specific list of items.
- **Staff Training and Care Quality**:

- Facilities must identify and document which staff are required to complete annual training on best practices/protocols for relevant services and QAPI program-identified needs.
- Facilities must document completion of staff training in staff personnel records and be able to demonstrate staff knowledge on the training topics.

- **Quality Assessment and Performance Improvement (QAPI) Program**:
  - Facilities must:
    - analyze data and quality indicators collected for the QAPI program by diverse subpopulations as identified among OB patients;
    - measure, analyze, and track data, measures, and quality indicators on patient outcomes and disparities in processes of care, services and operations, and outcomes among obstetrical patients;
    - analyze and prioritize patient health outcomes and disparities, develop and implement actions to improve patient health outcomes and disparities, measure results, and track performance to ensure improvements are sustained when disparities exist among obstetrical patients;
    - conduct at least one performance improvement project focused on improving health outcomes and disparities among the hospital's population(s) of obstetrical patients annually.
- **Emergency Services (All Hospitals/CAHs)**
  Note: These are proposed to apply to *all* hospitals/CAHs, including those without OB programs:
  - The facility must have in place provisions and protocols consistent with nationally recognized, evidence-based guidelines for OB emergencies, complications, immediate post-delivery care, and other patient health and safety events.
    Note: CMS does not currently plan to prescribe a specific list of items.
  - Facilities must identify and document which staff are required to complete annual training on best practices/protocols for relevant services and QAPI program-identified needs.
  - Facilities must document completion of staff training in staff personnel records and be able to demonstrate staff knowledge on the training topics.

Behavioral Health

Proposes multiple provisions to address mental and behavioral health, including:

- Implementing Section 4135 of the Consolidated Appropriations Act, 2023, which provides temporary additional payments for certain non-opioid treatments for pain relief in the Hospital Outpatient Department (HOPD) and ASC settings from January 1, 2025, through December 31, 2027.
  - Since additional payments may not exceed 18% of the OPPS payment for OPPS service/group of services, CMS is proposing to utilize the top five OPPS procedures by volume for each nonopioid drug or device to calculate the payment limitation.

- Proposing that seven drugs and one device qualify as non-opioid treatments for pain relief, and that these products be paid separately in both the HOPD and ASC settings starting in CY2025.

Quality Measures

Proposes changes to the Hospital Outpatient Quality Reporting (OQR), Ambulatory Surgical Center Quality Reporting (ASCQR), and Rural Emergency Hospital Quality Reporting (REHQR) Programs. CMS is proposing to adopt multiple measures within these programs:

- *Hospital Commitment to Health Equity (HCHE)* measure, beginning with the CY 2025 reporting period/CY 2027 payment determination; includes attestation across five domains – equity as a strategic priority, data collection, data analysis, quality improvement, and leadership engagement.
- *Screening for Social Drivers of Health (SDOH)* measure, beginning with voluntary reporting in the CY 2025 reporting period followed by mandatory reporting beginning with the CY 2026 reporting period/CY 2028 payment determination; number of adult patients receiving care at an HOPD, REH, or ASC who are screened at time of service for Health-Related Social Needs (HRSN).
- *Screen Positive Rate for Social Drivers of Health (SDOH)* measure, beginning with voluntary reporting in the CY 2025 reporting period followed by mandatory reporting beginning with the CY 2026 reporting period/CY 2028 payment determination; number of patients receiving care at an HOPD, REH, or ASC who screened positive for a specified HRSN.

For the OQR program, CMS proposes to:

- Adopt *Patient Understanding of Key Information Related to Recovery After a Facility-Based Procedure or Surgery* (voluntary in 2025, mandatory in 2026)
- Remove *MRI Lumbar Spine for Low Back Pain* in CY 2025
- Remove *Cardiac Imaging for Preoperative Risk Assessment for Non-Cardiac, Low-Risk Surgery* in CY 2025

Also within OQR, CMS proposes the following amendments to current quality requirements:

- Require EHR technology be certified to all eCQMs available to report in OQR Program.
- Public reporting of the *Median Time from ED Arrival to ED Departure* (Psychiatric/Mental Health Patients) measure to be reported on Care Compare.

For the REHQR program CMS has proposed:

- Extend the reporting period for Risk-Standardized Hospital Visits Within 7 Days After Hospital Outpatient Surgery from one to two years.
- Commence data submission on first day of quarter following REH conversion.

For the ASCQR program, CMS has requested information on changes to data reporting requirements related to case volumes:

- Potential addition of case minimums for measure reporting for specialty measures, defined as measures related to clinical procedures performed only by a subset of ASCs.
- Potential removal of the zero-case attestation requirement for specialty measures to decrease reporting burden.
- Potential verification of case counts using claims data to determine which specialty measures would be required for reporting for individual ASCs.

Prior Authorization

- CMS proposes moving the standard time from for Medicare fee-for-service prior authorizations from 10 to seven days.

Enrollment Periods

- CMS proposes to align the definition of "custody" to the definition found in the Social Security Act which excludes individuals on parole, probation, or home detention. They also propose a special enrollment period for formerly incarcerated individuals to enroll in Medicare.
- CMS proposes to require states to provide full year of continuous eligibility for children under the age of 19 to enroll in Medicaid and the Children's Health Insurance Program (CHIP).

Inpatient-Only List (IPO)

- Proposed changes to the IPO list, including the addition of three codes related to liver allografts.